CHAPTER 1: WELCOME TO THE LAW OFFICE: FOUNDATIONS FOR LITIGATION

CHAPTER OBJECTIVES

- Understand the role of the paralegal in the law office
- Recognize the importance of law office procedures in the practice of law
- Explain the ethical obligations of the paralegal in the legal arena
- Distinguish between the federal and state court systems
- Identify the different types of jurisdiction and in which court cases should be filed

The purpose of this chapter is to give students the feeling that they are starting work in a law office. The first section provides case "stories" that demonstrate the kinds of events that may lead to litigation. The stories give the necessary factual settings for many of the assignments and examples in the text, and bring them to life.

The Paralegal Handbook section is "the firm's" introduction to the office, its personnel, the role of the paralegal, important procedures, professional ethics, and professional development. It also introduces the systems approach. The section following the handbook provides an introduction to (or review of) court structure, jurisdiction, and venue.

PREPARING FOR CLASS: INSTRUCTIONAL SUPPLEMENTS

1. Preview the chapter questions and assignments.

2. Re: Case V. Note that sexual harassment under Title VII of the 1964 Civil Rights Act can be based on qualitative and quantitative differences in offensive conduct toward female and male employees, and does not have to be lewd or sexual in nature [*Christopher v. National Education Ass'n*. No. 04-35029 (9th Cir. 2005, Sept. 2)].

3. Have on hand the following information:
   - A diagram of your state court structure and a detailed description of the jurisdiction of each court
   - Names, addresses, and phone numbers of the clerk of court for the federal district court in your state and for any appropriate state courts
   - A list of local paralegal associations, noting officers, addresses, and phone numbers
   - Any provisions of your state's code of professional responsibility or rules of court that complement the chapter material on ethics for paralegals
   - Pertinent Web sites

SUGGESTED CLASS ACTIVITIES

1. Have a carefully chosen attorney or paralegal law office manager speak to the class about the typical structure and procedures of the law office.

2. Invite a local judge to lecture on the state and federal courts and their jurisdictions.

3. Have officers of local, state, or national paralegal associations speak to the class about their associations, the importance of professional ethics, and personal professional development.

SUGGESTED ANSWERS TO THE TEXT QUESTIONS AND ASSIGNMENTS

QUESTIONS FOR STUDY AND REVIEW

Questions for study and review test the student's understanding of the chapter. Strongly encourage students to use these questions in the text as a study guide at the completion of each chapter. If students can answer these questions, they should do well on an exam. You may choose to draw some of your exam questions from this list. Answers for these questions are provided here.

1. Define *paralegal.*
   Answer: A paralegal assists attorneys in preparing client cases. This includes assisting in interviews, investigation, document preparation, pre- and post-trial activities, trial and settlement, and any other activities permitted by statute or case law.

2. Why is a paralegal valuable to a law firm? Identify significant legal authority on billing for paralegal time.
   Answer: Paralegals can perform a multitude of tasks more economically for the client. This includes preparing letters, preparing documents, and investigative functions when necessary. *Missouri v. Jenkins* is the U.S. Supreme Court case that recognized that a paralegal's time can be billed as a fee and awarded by the court in assessing attorney's fees.

3. Why are timekeeping and deadline control important?
   Answer: Timekeeping is critical to billing. Deadline control is key in assignments, especially those dealing directly with a court.

4. What are some ethical concerns regarding timekeeping and billing?
   Answer: Paralegals cannot set fees for a client and cannot split fees with an attorney. The paralegal cannot perform tasks that are considered the unauthorized practice of law.

5. What is a litigation system and why is it beneficial?
   Answer: A litigation system is a detailed procedure manual that is a chronological collection of the guidelines, forms, correspondences, checklists, procedures, and pertinent law for all steps of the litigation process. As a personal resource, it provides advantages in efficiency, uniformity, accuracy, and quality. It will help you learn the benefits of being organized and can be easily updated.

6. Define *professional ethics* in the context of the practice of law.
   Answer: Professional ethics, as applied to attorneys, refers to the rules of conduct that govern the practice of law.

7. Why are professional ethics so important to a law firm?
   Answer: A breach of ethical standards will reflect badly upon the firm or employer and may also lead to the disbarment of an attorney. It may cost a paralegal his or her job and subject the paralegal to prosecution for the unauthorized practice of law.

8. What are the things a paralegal may not do?
   Answer: Paralegals *may not* perform any of the following functions:
   a. Provide legal services directly to the public without the supervision of an attorney. More states and the federal system are permitting paralegals to represent the public in limited controlled settings, such as landlord/tenant matters, immigration, and Social Security cases.
   b. Give legal advice or counsel a client. Legal advice is independent professional judgment based on knowledge of the law and given for the benefit of a particular client.

c. Represent a client in court or other tribunal or otherwise act as an advocate for a client unless specifically permitted to do so by law or rule of court. (See previous answer part a for further clarification.)
d. Accept or reject cases for the firm.
e. Set any fee for representation of a client.
f. Split legal fees with an attorney (bonuses and profit-sharing plans not tied to a specific case are permissible).
g. Be a partner with a lawyer if any of the activities of the partnership include the practice of law [exception: the District of Columbia Ethics Rule 5.4(b)]. The American Bar Association rejected a proposal to relax the prohibition against fee sharing and multidisciplinary practice.
h. Solicit cases for a lawyer.
i. Perform tasks that are the unauthorized practice of law as defined in the pertinent state.

9. What are the seven criteria that assure a paralegal's actions will not be or cause a breach of ethics?
Answer:
1. The task must be delegated by an attorney.
2. It must be performed under an attorney's supervision.
3. Paralegals must clearly designate their status as a paralegal.
4. The lawyer must retain a direct relationship with the client (the attorney must retain control over the relationship).
5. The task must involve information gathering or be ministerial and cannot involve the rendering of legal advice or judgment (unless the legal advice or judgment is provided by the paralegal directly to the attorney).
6. The work must be given final approval or be examined by the attorney.
7. The work must not have a separate identity but merge with the attorney's final work product.

10. What is a conflict of interest and the rationale for the relevant ethical standards?
Answer: A paralegal should avoid and reveal any conflicts of interest. This requirement rests on the rationale that citizens must have faith in the legal system to seek the peaceful resolution of their disputes. Because conflicts of interest can dilute an attorney's allegiance to the client and damage independent professional judgment, they are barred by the *Model Rules of Professional Responsibility*. A paralegal must also be loyal to the client and avoid such conflicts.

11. What is meant by the term *professional loyalty* as applied to your fellow workers? The client? The practice of law?
Answer: In professional working relationships, mutual respect and loyalty between employer and employees is especially important. Publicly criticizing one's fellow workers or one's clients, who deserve the utmost courtesy, respect, and a legal professional's every effort to preserve their dignity, is not consistent with professional loyalty. Relationships with clients must always be kept on a professional level. If a relationship becomes too personal, it threatens objectivity, confidentiality, and one's loyalty to the firm.
Professional loyalty to the firm extends to the practice of law, which supersedes loyalty to any specific individual. Attorneys are directed to call attention to the unethical practices of other attorneys, or, in some instances, of the illegal conduct of their own clients to avoid assisting in fraud or crime.

12. What are the characteristics of the common components of court systems in the United States?
Answer: The federal and state court systems have at least two types of courts in common: the trial court and the appellate court.

13. What is jurisdiction? Define the various kinds of jurisdiction: geographical, personal, general, and so on.
Answer: *Jurisdiction* is the power or authority of a court to hear and decide the questions of law or fact (or both) presented by a lawsuit. Most courts have *geographical jurisdiction*, meaning that they hear cases that arise within specific geographical boundaries.
The court also has *personal* (*in personam*) *jurisdiction*. This means the court must have the power over the particular person named in the lawsuit to enter a judgment against that person.
In rem (property) jurisdiction is the authority of the court to attach (seize) property (real estate, jewelry, bank deposits, or other property) within its geographical jurisdiction to resolve claims to the property. *Quasi in rem jurisdiction* is the authority of a court to seize and use property (within its jurisdiction) of a defendant over whom it does not have personal jurisdiction to pay a judgment against the defendant entered in an action indirectly related or unrelated to the property. If a court has *general jurisdiction,* it can hear all types of cases. Most states have trial courts of general jurisdiction in which subject matter jurisdiction is assumed unless one party can demonstrate that the court does not have the necessary subject matter jurisdiction.
Original jurisdiction indicates that cases first enter the system at this court level— they "originate" here. Most trial courts are courts of original jurisdiction.
A court has *limited jurisdiction* if its authority to hear and decide cases is limited to specific types of cases. Limited jurisdiction becomes *exclusive jurisdiction* if a court is the only court permitted to handle a specific type of case.

14. What are the personal jurisdictional considerations regarding a defendant when the Internet is involved?
Answer: Refer to *Zippo Mfg. Co. v. Zippo Dot Com, Inc.,* 952 F. Supp. 1119 (W.D. Pa. 1997). The *Zippo* case created a new test that focused on Internet cases—a sliding-scale test based on the quality and nature of the Internet activity. Was the defendant actively doing business through the Internet or was the defendant simply posting information (which the court referred to as "passive")? Where the activity is passive, the court will not assert jurisdiction. The test must be applied on a case-by-case basis by examining the level and nature of the activity of the Internet business involved. Although the *Zippo* analysis has been adopted by the majority of federal courts, there is no commonly accepted test for Internet cases.

15. What three things must a court have in order to hear a case and bind a party to the court's decision? Be able to apply these concepts to determine what court or courts can hear a lawsuit depending on domiciles of the parties and other factors.
Answer: A court must have subject matter jurisdiction and venue. Of the courts that have both subject matter jurisdiction and venue, it must be determined which, if any, of these courts have personal jurisdiction (or in the case of property such as real estate, which has in rem jurisdiction over the property). To gain personal jurisdiction over the defendant, the defendant must be served with a summons and complaint.

SYSTEMS FOLDER ASSIGNMENTS

1. Set up a three-ring binder or electronic equivalent with the tab dividers arranged as described in the litigation system section of the text. Copies of the office structure and forms previously discussed should be placed in the systems folder as indicated in Appendix A. Begin a table of contents for your systems folder and add any information assigned by your instructor.
Answer: This assignment starts the use of the system. If you decide to have the students develop a systems folder, the setting up of the folder needs considerable emphasis now and throughout the course. You many choose to have the folder turned in periodically for evaluation. Unannounced and random spot checks or turn-ins for a grade might help fight inevitable procrastination.

2. Look up your state's ethical rules that govern confidentiality, conflict of interest, attorney supervision of lay persons and legal assistants, professional integrity, and others. Record the rule numbers in an ethics section of your systems folder. Look up your state's unauthorized practice of law statute; note the wording and the possible penalties. You might want to add this to your folder. As you read further in this text and in other sources, insert in your folder the citations for key ethical rules and guidelines.
   Answer: What a paralegal may not do:
   - Provide legal services directly to the public without the supervision of an attorney.
   - Give legal advice or counsel a client.
   - Represent a client in court or act as an advocate.
   - Accept or reject cases for the firm.
   - Set any fee for representation of a client.
   - Split legal fees with an attorney.
   - Be a partner with a lawyer in practice of law (except in Washington, D.C.).
   - Solicit cases for a lawyer.

   Limits to what a paralegal may do:

   - The task must be delegated by an attorney.
   - It must be performed under an attorney's supervision.
   - Paralegals must clearly designate their status.
   - The attorney must retain a direct relationship with the client.
   - The task must involve information gathering or be ministerial and cannot involve the rendering of legal advice or judgment.
   - The work must be given final approval by the attorney.
   - The work must merge with the attorney's final work product.

   Also:

   - A paralegal shall hold inviolate the confidences of a client.
   - A paralegal must maintain the highest standards of professional integrity and avoid any dishonesty, fraud, deceit, or misrepresentation.
   - A paralegal should avoid and reveal any conflicts of interest.
   - A paralegal must strive to be competent and current in the field.
   - A paralegal should be loyal to the employer and to the legal profession and its standards.

3. Locate the names, addresses, and phone numbers of your local and state paralegal associations. If you need help obtaining this information, try the director of a local paralegal program or any experienced paralegal. The headquarters of the state bar association might also have such information. For future reference, you may choose to place your expanded lists of sources for professional development in your systems folder.
   Answer: You may choose to provide these as a handout. If placed in the systems folder, they will provide a handy future resource.

State Paralegal	Local Paralegal
Association	Association
Name:	Name:
Address:	Address:
Phone:	Phone:

E-mail:	E-mail:
Web site:	Web site:
Contact Person:	Contact Person:
Meeting Dates and Times:	Meeting Dates and Times:

4. Make a copy of the federal court structure diagram found in this chapter and add any explanatory notes you feel will be useful to you in the future. Include in your diagram the names of U.S. district courts that sit in your state and the U.S. Court of Appeals that covers the circuit in which your state is situated.

   Make a similar explanatory diagram for the court system of your state. Research the material to be placed in the diagram, including any jurisdictional amounts, by looking under courts, judiciary, and jurisdiction in the index of your state statutes or constitution, usually located in the law library, or search your State Court Web site. Some states have an administrative office of the courts at the capitol that may provide preprinted state court diagrams.

   Place both diagrams and the State Court Web site address in the court section of your litigation systems folder.

   Answer: You may decide to provide the state court diagram addressed in this assignment. If so, include the jurisdiction of each court.

5. Consult the state's legal directory in the library or online sites to obtain all court addresses, names of clerks of court, important telephone numbers, and so on. Research state statutes for the subject matter jurisdiction in your state's highest, intermediate, and trial courts. Place this data in the court structure portion of your systems folder.

   Answer: You may choose to provide this information, but it would be good for students to locate it so they become familiar with the state legal directory.

   Federal Court System

   Highest Court

   Name: U.S. Supreme Court — Address:

   Clerk:

   Phone:

   Jurisdiction:
   1. Appeals from U.S. Court of Appeals and highest state courts
   2. State v. state
   3. Cases involving ambassadors and other foreign representatives
   4. U.S. v. state
   5. State v. citizens of another state or country

Intermediate Appellate Court	Address:
Name: U.S. Court of Appeals	Clerk:
Jurisdiction: Appeals from district courts	Phone:
Trial Courts	Address:
Name: U.S. District Courts	Clerk:

Jurisdiction:	1. Federal questions 2. Diversity of citizenship 3. $75,000 amount in controversy	Phone:
State Court System		
Highest Court		Address:
Name:		Clerk:
Jurisdiction:		Phone:
Intermediate Appellate Court		Address:
Name:		Clerk:
Jurisdiction:		Phone:
Trial Courts		Address:
Name:		Clerk:
Jurisdiction:		Phone

APPLICATION ASSIGNMENTS

1. Using the ethical standards and rules cited in this section, answer the following questions on ethics.
   a. You have just researched an issue and have found that inattentive driving is a breach of the duty of care that a driver owes to others. In a phone conversation the client asks you, "If the driver of the vehicle that struck was inattentive, is he in the wrong?" How should you answer?
   Answer: "I'll ask [attorney] and get back to you," or "In response to your question, [attorney] says 'yes, the driver would be in the wrong.'"
   b. Ms. Pearlman asks you to draft a release of medical information form for a client. This form is then signed by the client and given to the hospital. Under what conditions can you do this and avoid the unauthorized practice of law?
   Answer: The task must be delegated by an attorney; the attorney will have to review it for accuracy; the paralegal will have to identify himself or herself as a paralegal in any dealings with the client; and the attorney will have to maintain control over the client's case. This task must not involve the giving of any legal advice, and must merge with the overall final work product of the attorney on behalf of the client.
   c. You are working on a client's case for Ms. Pearlman. She is gone, so you want to consult with Mr. White, another attorney in the firm. To do so, however, you must reveal to Mr. White some confidential information about the client. Would this be a breach of confidentiality?
   Answer: No. the authorization for this disclosure is implied under Rule 1.6(a).

2. You are a paralegal working for an attorney who has represented Safe Bet Insurance Company. A potential client wants to sue Safe Bet. Is there a potential conflict of interest, and if so, may your attorney represent the new client?
   Answer: The ABA Standing Committee on Ethics and Professional Responsibility Formal Opinion 05–435 (Dec. 8, 2004) says that if the former client and potential client are informed and both consent, representation of the latter is okay. The opinion adds, however, that this practice is likely to lead to distrust.

3. In interviewing a client, you and your attorney are convinced that some information provided by the client is false. What consequences can result from the presentation of such information to the court? What model rule of professional conduct applies?
   Answer: The finding that the lawyer is in a serious ethical breach as defined in Rule 3.3(4) could lead to disbarment. The paralegal could be removed from membership in local or national paralegal associations.

4. Determine in which courts subject matter jurisdiction, personal jurisdiction, and venue exist in the following problems.
   a. M, a resident of Wisconsin, and O, a resident of Minnesota, sue Corporations X and Y for industrial injuries amounting to $40,000 for each plaintiff resulting from an accident that occurred in Illinois. X is incorporated in Delaware and Ohio, and Y is incorporated in North Carolina with its principal place of business in Ohio.
   Answer: There is not federal jurisdiction because the plaintiffs cannot aggregate the claims to make the jurisdictional amount. All states mentioned have general jurisdiction. State venue exists in at least Delaware and Ohio for X, in North Carolina and Ohio for Y, and in Illinois for both X and Y because that is where the action arose. Personal jurisdiction, however, can be gained only in Ohio over both defendants. The action must be brought in Ohio state court or as two separate actions in any of their resident states.
   b. J and K reside in Oregon and sue R, who resides in Kentucky, and S, who resides in Washington, for a tort (libel) amounting to injuries exceeding $75,000 each, which occurred in Washington.
   Answer: All state and federal courts have subject matter jurisdiction (there is diversity). Venue rests in state courts in Kentucky (for R) and in Washington (for S), and in Washington, where the claim arose.
   Federal venue for a diversity action against R exists in the district in Kentucky where R resides. Venue for an action against S exists in Washington, where S resides. Venue for an action against both R and S exists in Washington, where the substantial event arose. Personal jurisdiction for a state action exists in Kentucky for R only and in Washington for S only. Personal jurisdiction for a federal action exists in Kentucky for R and in Washington for S. Unless Washington has a long-arm statute that reaches tortfeasors, a separate action must be brought against R and S in both states and in their respective federal districts. If Washington has an appropriate long-arm statute, both a joint state and federal action can be brought in the state of Washington.

5. Glitter is a corporation that rents expensive jewelry to businesses and individuals. It is incorporated in Delaware and has its principal place of business in northern Indiana. It is licensed to do business in every state except Alaska and Hawaii. Flick, Inc., is a movie company incorporated in Idaho with its principal place of business in Utah. It does no business to speak of in any other state.
   During Flick's filming in Nevada, an expensive necklace rented from Glitter falls into a piece of machinery on the set and is destroyed. Glitter wants to sue Flick for negligently destroying the jewelry (worth $700,000). Flick decides to sue Glitter, blaming the loss of a week's filming on the loss of the necklace, which they claim was caused by a faulty clasp made by Glitter. After using the charting method described in this section, answer the following questions:

   Charting method applied to the case:

GLITTER V. FLICK FOR NECKLACE

Court	Subj. Matter	Juris.	Pers. Venue	Juris.
Delaware State	Yes		No	No
Indiana State	Yes		No	No
Idaho State	Yes		Yes	Yes
Utah State	Yes		Yes	Yes

Nevada State	Yes	(diversity)	Yes	?*
Delaware Federal	Yes	(diversity)	No	No
Indiana Federal	Yes	(diversity)	No	No
Idaho Federal	Yes	(diversity)	Yes	Yes
Utah Federal	Yes	(diversity)	Yes	Yes
Nevada Federal	Yes	(diversity)	Yes	?*

*ISSUE: Is filming a movie in a state a sufficient contact to allow personal service? (May depend on state statutes and overall degree of contacts.)

FLICK V. GLITTER FOR LOSS OF WEEK OF FILMING

Court	Subj. Matter	Juris.	Pers. Venue	Juris.
Delaware State	Yes		Yes	Yes
Indiana State	Yes		Yes	Yes
Idaho State Yes		No	No	
Utah State Yes		No	No	
Nevada State	Yes		Yes	?
Delaware Federal	Yes	(diversity)	Yes	Yes
Indiana Federal	Yes	(diversity)	Yes	Yes
Idaho Federal	Yes	(diversity)	No	No
Utah Federal	Yes	(diversity)	No	No
Nevada Federal	Yes	(diversity)	Yes	?

a. If Glitter sues Flick, is there subject matter jurisdiction in federal district court?
   Answer: Yes.
b. What, if any, kind of subject matter jurisdiction exists in federal district court?
   Answer: Diversity.
c. What issue concerning personal jurisdiction exists when considering suit by Glitter against Flick in Nevada state and federal court?
   Answer: Whether the state has a long-arm statute that will permit personal jurisdiction on Flick for having filmed one movie in Nevada, where the action arose.
d. Aside from Nevada, in what state and federal courts can Glitter sue Flick?
   Answer: State courts: Idaho and Utah. Federal courts: District of Idaho and District of Utah.
e. If Flick sues Glitter, does venue exist in the state courts of Idaho and Utah? Why or why not?
   Answer: No. State court venue normally rests in the state of the defendant and where the action arose.

CASE ASSIGNMENTS

1. Your law firm has been hired to represent Ann Forrester in her lawsuit against Mercury Parcel Services, Inc. and its driver Richard Hart. Determine in what court would any future lawsuit be filed and explain the basis for your decision.
   Answer: State of Columbia: Middleton County.

2. As Mrs. Forrester's attorneys, what ethical obligations do you have regarding any communications you have with her regarding her potential lawsuit? What ethical obligations does your law firm have with regard to Mrs. Forrester's husband William?
   Answer: A confidential relationship is created between the firm and Mrs. Forrester. That relationship is with her and not her husband. As a paralegal, all communications with Mrs. Forrester are privileged and confidential.

INTERNET EXERCISES

INTERNET EXERCISE

Determine the types of legal activities in your jurisdiction for which a paralegal can be billed by a law firm and which activities cannot be billed. Explain the distinction for what is considered billable time in your jurisdiction.
Answer: This response will vary according to the jurisdiction.

INTERNET EXERCISE

Locate a copy of your state's code of professional responsibility on the Internet. Determine whether your state addresses the professional responsibilities of paralegals and what those entail. If your state does not specifically address the professional responsibility of paralegals, determine what code your state follows and how it is applied.
Answer: This response will vary according to the jurisdiction.

INTERNET EXERCISE

Obtain or create a diagram of your state system, noting which courts function as trial courts (original jurisdiction) and as intermediate or final level courts of appeal (appellate jurisdiction). Be able to identify the subject matter jurisdiction of each of your state courts. This is important because most of your work will be done in state court.
Answer: This response will vary according to the jurisdiction.

APPLY YOUR KNOWLEDGE

APPLY YOUR KNOWLEDGE

Under what circumstances, if any, in your jurisdiction may a paralegal practice law unsupervised? Determine under what legal authority this practice is governed, such as a statute, court rule, or bar association opinion. Is there a distinction between paralegal practice in state court practice and federal practice? If so, under what circumstances can a paralegal represent the public?
Answer: This response will vary according to the jurisdiction.

APPLY YOUR KNOWLEDGE

Determine from the map in Exhibit 1.6 the federal circuit and district courts that serve your state. Place that information in your systems folder.
Answer: This response will vary according to the jurisdiction.

APPLY YOUR KNOWLEDGE

Using the facts from Case IV at the beginning of the chapter, determine what state and in what courts could Briar Patch file a lawsuit against Teeny Tiny Clothing.
Answer: State court: Massachusetts. Federal court: Massachusetts (diversity) District Court.

CASE STUDY QUESTIONS FOR REVIEW

Missouri v. Jenkins. 491 U.S. 274 (1989)

QUESTIONS FOR REVIEW: **What was the main issue in the case?** The issue before the U.S. Supreme Court was what constituted billable time for a paralegal and at what market rate a paralegal's time should be billed as part of an award for attorney's fees. **What was the position of the state of Missouri on the payment of paralegal fees?** Paralegal fees should be paid at cost rather than market rates, such as $30.00 to $50.00 per hour. **What was the reasoning of the dissent in *Jenkins*?** The dissent was founded on the belief that the Eleventh Amendment does not permit the enhancement of attorney's fees assessed against a State as compensation for delay in payment: "Two general propositions that are relevant here emerge from Sahw. Frist, interest is considered damages and not costs. Second, compensation for delay, which serves the same function as interest, is also the equivalent of damages. These two propositions make clear that enhancement for delay constitutes retroactive monetary relief barred by the Eleventh Amendment."

Doe v. Condon, 341 S.C. 22; 532 S.E.2d 879 (2000)

QUESTIONS FOR REVIEW: **What rules of ethics did the Court use to support its conclusion?** S.C. Rules of Professional Conduct, Rule 5.4, S.C. App.Ct. R. 407. **Would the Court have reached the same result if the attorney (1) had been a presenter along with the paralegal at the seminar and (2) had participated in the meeting and interview process with clients?** Most likely, yes. The absence of the attorney's input and supervision caused the problems in the case. The paralegal, in this instance, had too much independence.

Are there any circumstances where the rules of ethics permit a paralegal to share in the profits from a law firm? No. The paralegal can earn a bonus, but this is not considered sharing in the profits of the law firm.

Caiazzo v. American Royal Arts Corp, 73 So. 3d 245 (Fla. 2011)

QUESTIONS FOR REVIEW: **Determine the test the Court used for specific jurisdiction.** For specific jurisdiction, the Court focused on the Florida long-arm statute and Caiazzo’s contacts with the state. The Court found specific jurisdiction, which means that the Court had personal jurisdiction over him. **What is the test for general jurisdiction?** As for general jurisdiction, the Court performed a different analysis focusing on whether Caiazzo had "substantial, continuous, and systematic" minimum contacts. In this instance, the Court found that the contacts were almost exclusively on the Internet, and those contacts were not substantial and continuous enough to warrant general (personal) jurisdiction over Caiazzo. The end result was that the Court did find personal jurisdiction, but under specific and not general jurisdiction. **How do the tests differ?** For specific jurisdiction, the Court focuses on a statutory connection. As for general jurisdiction, the Court looks to the type of contacts with the jurisdiction. **How did the Court analyze the Internet contacts and what case precedent did the Court apply in reaching its decision?** The court found that the Internet connection were tenuous and did not find jurisdiction under that test. The Court looked at U.S. Supreme Court precedent and the leading Internet case of *Zippo Mfg. Co Zippo Dot Com. Inc.,* 952 D. Supp. 1119 (W.D. Pa. 1997).

SUGGESTED ANSWERS TO THE ADDITIONAL MINDTAP QUESTIONS AND ASSIGNMENTS

ADDITIONAL QUESTIONS FOR STUDY AND REVIEW

1. What is a partner, an associate, and a staff attorney?
Answer: *Partners* are the attorney-owners of the law firm and share in its profits. *Senior partners* are the partners who have been with the firm the longest and often have the greatest ownership share. Attorneys who have not yet become partners and are salaried are *associates*. More experienced associates are sometimes given the title *senior associate*. *Staff attorneys* are hired for economic reasons and, unlike associates, have no expectation of becoming partners.

2. What is the "chain of command" at White, Wilson & McDuff?
Answer: See Exhibit 1.1.

3. State the benefits of having diverse personnel.
Answer: Diversity in our office personnel at all levels enriches our work environment, improves communication with an increasingly diverse clientele, and is good for business. Businesses and major corporations are looking to hire law firms with diverse personnel, including women and minority partners. Therefore, striving to develop corresponding policies and benefits, such as better access for the disabled, plus child care, flex time, and family leave programs, will assist a firm in becoming more diversified and attractive to all types of businesses and individuals.

4. Define *civil litigation.*
Answer: Cases involving noncriminal matters, such as personal injury, civil rights, contractual claims, and numerous others areas, as cited in the Firm handbook.

5. What are some of the profound effects the Internet is having and will have on the practice of law?
Answer: The effect of the Internet on the practice of law is vast. Technology requires knowledge of software, e-mail procedures and security, video conferencing, instant messaging, PIMs, and other means of communicating with each other and our clients. The Internet also poses many ethical and security concerns that must be addressed in the workplace. One area that a paralegal must confront with regard to the Internet is the increased practice of the unauthorized practice of law. This is an area that should be reinforced in any classroom discussion.

6. What is the difference between a personal injury case based on negligence and a product liability case? An antitrust and a civil rights case?
Answer: The theories of recovery are different depending on the cause of action. Negligence liability is unintentional, whereas many types of products liability cases involve strict liability, which is a different standard of law. Antitrust cases mostly address aspects of unfair competition, whereas civil rights cases involve unfair treatment of individuals in varying scenarios, such as workplace issues or public access issues (e.g., ADA issues).

7. Define the various billing types and describe the steps in the timekeeping procedure. What is task-based billing?
Answer: Some types of billing and fees are:
Hourly rate billing—a price based on the total number of hours worked at a specified per hour charge
Task-based billing—set prices for different types of tasks that may vary depending on the nature or difficulty of the task (phone call, travel, document drafting, etc.)
Flat fee billing—an overall, preset price to handle a matter from start to finish (frequently used for routine, high-volume matters)

Contingency fee—an amount to be paid only if the client wins the case, usually a percentage of the money awarded to the client
Retainer fee—upfront payment to secure legal services and to cover anticipated costs and attorney fees
Value billing—a pricing method (increasingly demanded by many businesses and corporations) that requires the law firm to estimate what the legal representation will cost and what services, specifically, the client will pay for (used to bid for a prospective client's business and to help the client budget the cost of legal services).

Steps in the timekeeping procedure are as follows:

1. Enter the client's name, the related file or account number, and the date of entry.
2. Enter your identification code.
3. Enter or click the type of service provided.
4. Click the NC box if time was spent on a nonbillable item such as a professional meeting or public service activity.
5. Enter the number of whole hours worked on the service plus any partial hours, usually in tenths of an hour (six minutes equals one-tenth of an hour).
6. If the software permits, enter a description of the task that accurately conveys to the client the legitimacy of the work.
7. Enter information on any out-of-pocket expenses incurred that are to be reimbursed by the client, such as long-distance phone calls, mileage traveled, and online fees.

Task Based Billing

Task-based billing—set prices for different types of tasks that may vary depending on the nature or difficulty of the task (phone call, travel, document drafting, etc.)

8. Describe the steps in the deadline control procedure.
Answer:
1. Enter the name of the client and the file number of the case to which the deadline applies.
2. Enter the task that must be completed. Some tasks require other related tasks to be done by other people in the firm, or software facilitates the assignment of deadlines to more than one employee. Enter this information.
3. Enter the deadline date and reminder dates for the particular task in the designated boxes.
4. Enter the start date (the day the task should be started) in the designated box.
5. Enter under "Remarks" any specific direction to assist in completing the task.
6. If done electronically, the information is automatically recorded in the firm's master calendar. If done manually, see that the required form is delivered to the person in charge of recording deadlines.

9. What is the significance of office electronic security? List related security tips.
Answer: Electronic security refers to the steps a law office takes to maintain the security and integrity of its electronic systems and communications.
Tips:
- When e-mailing confidential documents, use encryption or, at the very least, use the office's standard confidentiality disclaimer with intended recipient information and subject as the e-mail message and enclose the confidential document as an attachment only.
- Use a metadata removal program for documents being sent out of the office (metadata is invisible but retrievable electronic information about the preparation and history of a document that can be harmful in the hands of opponents or others).

- In addition to virus protection, use software that prevents others from invading your computer system with spyware, password crackers, network scanners, and the like.
- When out of the office, avoid the use of shared wireless or Internet café services except for with routine, nonconfidential communication.
- Confirm that your computer work is backed up regularly.
- If working at home on office business, be sure your home computer is also protected by a firewall and other needed security devices.
- Take great care to prevent the theft of portable electronic devices used for office business

10. What are the techniques for thriving in the law office?
Answer:
- Become acquainted with your fellow employees.
- Review your ethical responsibilities and those of the firm on a regular basis.
- Learn the chain of command in the office and the roles of your supervising attorney or paralegal manager, the secretaries and others to whom you will give assignments, and other members of the firm. Know where authority rests and who is responsible for what.
- Understand that you are a part of a team whose members are likely to have conflicting deadlines and schedules.
- Know how to assign work. Decide to whom the work should be assigned and submitted, how much advance notice is normally required before the expected completion date, what procedure is appropriate in last-minute rushes, whether completion dates should be given, and whether special forms for delegating tasks are used. Compliance with these procedures will enhance your relationship with those to whom you assign work and will contribute to office efficiency.
- Submit work as error-free as possible. Take the time to check grammar, spelling, citations, form, brevity, accuracy, and clarity.
- Keep careful track of client files. Misplaced case files lead to frustration and can adversely affect our representation of a client. Follow strictly the office policy on checking out and returning files.
- When addressing clients, use *Mr.*, *Ms.*, *Dr.*, or other appropriate titles. Avoid first names unless there is no doubt the situation makes it acceptable.
- Be sensible when using the telephone. In addition, some phone conversations are important enough to confirm in writing the terms, dates, or arrangements discussed on the phone. If possible, do this immediately following the phone call. The letter serves as an important record of the conversation. In some instances, if a letter of confirmation seems inappropriate, a brief memo to the file may be useful.
- Learn to complete assignments efficiently. Prioritize your assignments according to deadline, how much time they will take, and other factors.
- Once you have the assignment in mind, decide the best way to complete the task. Use the guides and examples provided during your training. Ask the attorney for additional guidance.
- Remember the importance of your work to your clients.
- Reduce stress and its debilitating effects by learning not to take curtness and gruffness personally, understanding that this is a symptom of the pressure felt by others.
- Dress professionally.
- Learn the criteria in your office for a job well done and those for advancement.
- Keep a sense of humor.

11. State the ethical standard on preserving client confidentiality.
Answer: A paralegal shall hold inviolate the confidences of a client. Nothing the client tells you or that you learn about the client may be revealed to anyone outside the office, not even to a spouse or parent. ABA Model Rule 1.6 states that a client's confidences shall not be revealed unless the client gives "informed consent" or the disclosure is "impliedly authorized to carry out the representation."

12. What are the criteria for a proper conflict-of-interest screen according to the *Leibowitz* case?
    Answer: The preferred method to deal with such real or potential conflicts is to surround the new employee with an "ethical wall" that screens the employee from any contact with the case that causes the conflict. This approach is recommended by the ABA and has been adopted in most jurisdictions [Comment 4, Model Rule of Professional Conduct 1.10; ABA Committee on Ethics and Professional Responsibility, Informal Op. 1526 (1988); and ABA Model Guideline 7 for the Utilization of Paralegal Services (2004)]. In *Leibowitz v. the Eighth Judicial District Court of the State of Nevada,* 78 P. 3d 515 (Nev. 2003), the Nevada Supreme Court reversed a former decision that prohibited such screens for nonlawyer personnel, and reiterated the recommended criteria for a proper conflict-of-interest screen:
    1. The new nonlawyer employee must be warned not to reveal any information relating to the representation of the former employer's client.
    2. The employee must be told not to work on any matter the employee worked on for the former employer or on which the employee has information gained during the former employment.
    3. The new firm should implement safeguards beyond the above warnings to see to it that the new employee does not work with matters worked on during the prior employment (such as notifying all office lawyers and paralegals that the relevant employee must not work on the specifically identified matter).
    4. The new firm must inform the adverse party (or counsel) that their former employee has been hired and of the screening methods used.

13. Why are professional integrity and honesty so important?
    Answer: Be mindful that one's actions reflect upon this firm and the professions we each represent. Ethics are the key to the legal profession and represent who the firm is and the people within the firm. The more that is known about the ethical responsibilities of the attorney and paralegal, the more likely it is that trouble will be avoided.

14. What is personal professional development? Why is it important?
    Answer: Personal professional development is the practice of improving oneself professionally by keeping abreast of developments within the legal professional, such as ethics, cases, and trends. The importance of professional development is that it allows both the attorney and paralegal the opportunity to keep current on new developments in the legal profession.

15. What are the names and jurisdictions of the various levels of courts in both the federal and your state system?
    Answer: Other than the federal system, which has district courts, federal appeals courts, and the U.S. Supreme Court, the answer will vary depending upon the student's jurisdiction of practice.

16. What federal circuit is your state in?
    Answer: This answer will vary depending on the student's jurisdiction of practice.

ADDITIONAL SYSTEMS FOLDER ASSIGNMENTS

1. To develop a timekeeping habit during this training period, keep track of your time spent on assignments in the following time log, similar to that in Exhibit 1-2. Use a separate notebook or loose-leaf paper that can be placed at the back of your systems folder or keep track of your time in an electronic timekeeping program, if one is available.
   Answer: The students may need occasional reminders to keep up their time logs. If you have timekeeping software available, students could keep track of their time by computer.

2. Set up a simple deadline calendar for this training period. Use any type of standard calendar. Enter all important deadlines such as assignment due dates and exam dates. Use a system of advance reminder dates prior to the actual deadline and post-deadline reminders for necessary corrective action.
   Answer: This should instill a deadline calendaring habit. Use of post-deadline reminders should be emphasized. If your program has access to deadline control computer software, you might require students to use it for the various deadlines in the course.

ADDITIONAL APPLICATION ASSIGNMENTS

1. An attorney relied on a non-attorney calendar clerk to let him know when a notice of appeal was due. The deadline was missed, and the attorney filed for an extension of time because of excusable neglect, allowable if there is good cause for the mistake. Should the extension be granted?
   Answer: The court in *Pincay v. Andrews*, 351 F.3d 947 (9th Cir. 2003) ruled that delegation of responsibility for knowledge of the law to a nonlawyer is not acceptable. It added that delegation of services involving knowledge of the law to nonlawyers such as paralegals is common and acceptable as long as responsibility is retained by the lawyer.

2. Your supervising attorney asks you to release to the press a letter from a third party. The attorney says, "I'll finally get even by truly embarrassing the s.o.b." What should you do?
   Answer: The attorney's conduct is unethical under Rule 4.4 ("a lawyer shall not use means that have no substantial purpose other than to embarrass"). It is the professional duty of a paralegal to point this out to the attorney. There may be a satisfactory explanation. If not, the paralegal must refuse to commit the act or be a party to the unethical breach. This is an example where loyalty to the profession and its ethics may supersede loyalty to the attorney.

3. Determine in which courts subject matter jurisdiction, personal jurisdiction, and venue exist in the following problems.
   a. A, a resident of Florida, sues B, a resident of Washington, who is also the Secretary of the Interior, in a First Amendment freedom-of-speech issue arising in southeast Georgia.
      Answer: Subject matter jurisdiction rests in the federal district courts (federal question cases) and all state courts (general jurisdiction).
      State venue rests with the residence of the defendant (Washington) or where the cause arose (Georgia). Federal venue where the defendant is an officer of the United States, regardless of the fact that this is a federal question case, exists under §1391(e) in the district where defendant resides (Washington), or where a substantial part of the event or omission arose (Southeastern District of Georgia), or where the plaintiff resides if there is no real property involved (Florida).
      The courts with personal jurisdiction, however, include only Washington state courts or the District Court for Washington, absent any long-arm provisions. Therefore, the action can be brought in the District of Washington or in a Washington state court. Section 1391(e), however, suggests that personal jurisdiction can be gained by mail, and therefore the action could be filed in the appropriate district in Florida or southeast Georgia.
   b. What happens in problem 3 if S is a Canadian citizen living in Louisiana?
      Answer: Only Louisiana can get personal jurisdiction and venue for a state suit against S. Under federal law (§1391), federal venue exists in any district, but personal jurisdiction exists only in the appropriate district in Louisiana. Therefore, separate state and federal actions would be necessary in Kentucky and in Louisiana. Again, a long-arm statue in Washington could lead to combined state or federal actions in Washington.
   c. E sues Great Britain for damages exceeding $500,000 for the illegal impounding of E's commercial plane.
      Answer: The United States District Court for the District of Columbia [§1391(f)(4)].

ADDITIONAL INTERNET EXERCISES

1. Go to www.abanet.org. In the search window, type: model guidelines for the utilization of paralegal services. Find paragraph 3 of the comment to Guideline 1. What must a lawyer do to conform to Guideline 1?
   Answer: "[A} lawyer must give appropriate instruction to paralegals . . . about the rules governing the lawyer's professional conduct, and require paralegals to act in accordance with those rules."

2. Ask your instructor for the name of your state and local paralegal associations. Using a general search engine, see if that association has a Web site. If so, note the Web address in your systems folder.
   Answer: No answer is required for this exercise.

3. Go to both the NALA and NFPA Web sites and note the variety of career information available.
   Answer: No answer is required for this exercise.

4. Using your own search strategy, locate the Web site for your state courts. Note what general categories of information are available and enter this information in your systems folder.
   Answer: No answer is required for this exercise.

ADDITIONAL LEARNING EXERCISES

1. Without trying to use legal terminology or technical theories, answer the following questions for each of the five hypothetical cases presented in this chapter.
   a. Who is suing and what basis might they have?
   b. Against whom is the suit brought and what defenses might they have?
   c. Who do you think will win and why?
      Answer:
      Case I

      a. Ann Forrester is suing because Richard Hart was not driving carefully (failed to stop), and because the Mercury Parcel van was poorly maintained (no brakes).
      b. Mercury Parcel, that Ms. Forrester was not watching for traffic; that Hart was at fault, not the van. Richard Hart, that Ms. Forrester was not watching traffic and that the van was poorly maintained by Mercury Parcel.
      c. This answer is subjective. For each case, however, students should consider such things as disparity in each party's resources, jury sympathy factor, difficulty of proof, comparative long-term waiting power of the parties, likelihood of hiring a better attorney, and other factors.

      Case II

      a. Carl Ameche, because his injuries were caused by unsafe electrical conditions at the campground.
      b. The Congdens, that Ameche had moved the cord.
      c. This answer is subjective.

      Case III

      a. Sam and Emma Coleman for Sean Coleman, because the vehicle was unsafe to be operated as advertised.
      b. Make Tracks, that the vehicle was operated in a reckless manner.
      c. This answer is subjective.

Case IV

a. Briar Patch Dolls, because unfilled contract orders caused massive business losses.
b. Teeny Tiny Manufacturing, that unfilled orders were unavoidable because of Ms. Meyers' death.
c. This answer is subjective.

Case V

a. Darlene Rakowski, because unpleasant working conditions (sexual harassment) forced her to leave her job.
b. Montez Construction, that Ms. Rakowski was unable to perform her job.
c. Subjective.

2. Apply the directions for preparing a time slip to enter these activities. Assume your hourly rate is $40 an hour and the date is today. Round to the nearest tenth of an hour.
6-minute phone call to client A. Forrester, Case I.
16 minutes to draft letter on behalf of client Heinz, Case IV.
1 hour and 18 minutes to research cause of action for client Ameche, Case II.
1 hour and 20 minutes to attend continuing education luncheon to improve general knowledge, but which may be useful on Cases III and IV. Cost: $5. (Should this be charged to the client?)
Answer: See box with completed permanent time log.

Permanent Time Log

Service Codes

BG	Budgeting Settlement	DM	Document	M	Memorandum	SE	
C	Conference Telephone		Management	MO	Motion	T	
CT	Court	DS	Discovery	P	Preparation	TR	Travel
D	Document	I	Investigation	PL	Planning	O	Other
	Drafting	L	Letter	R	Research		

No-Charge Items

NC	No Charge	CE	Continuing Education	PS	Public Service
B	Bar Function	CR	Client Relations		

Date	File No.	Client	Att/Plgl	Serv Code	Hrs	10th	Rate/Hr	Amt
	1	A. Forrester		T		1	40	4.00
	4	Heinz, Briar Patch		L		3	40	12.00
	2	C. Ameche		R	1	3	40	52.00
				CE*	1	3		NC

Comments:
*Out-of-pocket expense of $5 to be reimbursed by firm

3. Fill out disbursement records based on this information.
100 photocopies at 10¢ per copy, business records for Heinz, Case IV.
Trip to investigate accident scene for client McVay, Case X: $60, motel; $5, lunch; $11, dinner; 100 miles at .25 per mile.
Computer research time, 10 minutes at $5 per minute for Montez Construction, Case V.
Answer: See box with completed permanent disbursement record.

Permanent Disbursement Record

Expense Codes:

C	Photocopies	L	Lodging	P	Postage	T	Telephone
CT	On-line Computer	M	Meals	$	Cash	TR	Travel
F	Filing & Other Fees	O	Overnight Express	TG	Telegrams	O	Other

Date	File No.	Client	Atty/Plgl	Exp. Code	Amt.
	4	Heinz, Briar Patch		C	10.00
	10	McVay		L	60.00
	10	McVay		M	16.00
	10	McVay		TR*	25.00
	5	Montez Construction		CT	50.00

Comments: *Note destination and mileage.

4. Assume that you have just opened the morning mail and received a copy of a complaint alleging a cause of action against Mr. Holton, who is represented by your firm. His file number is 92-1000. You know that you have 20 days, starting tomorrow, to file an answer and that it is your job to draft an answer for your supervising attorney's review. You have received the complaint on September 5. Making up the names you need, prepare the following deadline control slip so the document will be ready to mail on the 20th day. Ignore the fact that some days may be weekend days for purposes of this assignment only. Assume it will take a half day to research and draft the answer, one hour for the attorney to review it, a half hour for you to make revisions, and a half hour for the secretary to type it and have it ready for mailing. Complete all sections of the slip.
Answer: See box with completed deadline slip. Check that appropriate places are filled in on the slip and that the time sequence is logical and reasonable.

Deadline Slip

Client: Holton File Number: 92-1000

Atty:	Start:	Due:	Plgl:	Start:	Due:	Staff:	Start:	Due
I.P.	9/20	9/22		9/15	9/17	M.D.	9/23	9/24
Task: Review, review amendments,			Task: Draft answer			Task: Prepare Answer sign answer for review, signature, then mail.		
Remarks:			Remarks:			Remarks:		
Reminder: 1 2 Final			Reminder: 1 2 Final			Reminder: 1 2 Final		
Done:			Done:			Done:		

5. Of all the techniques mentioned for thriving in the law office, which two are most important? Explain.
   Answer: This answer is subjective.

6. Describe a paralegal litigation systems folder and its advantages.
   Answer: A systems folder is a detailed procedure manual that is a collection of directions, forms, and checklists for tasks regularly performed by the paralegal.
   Advantages include efficiency, uniformity, accuracy, quality, and currentness. It can be a learning device, a factor in securing employment, and an aid on the job.

7. Read thoroughly the *Model Rules of Professional Conduct* or your state rules of conduct to gain a fuller understanding of your ethical responsibilities. Why is confidentiality so important?
   Answer: If there is no confidentiality, clients will not confide essential details or will not consult a lawyer at all. Consequently, this could result in less use of the system, more self-help, and possibly chaotic results in dispute—and, ultimately, system failure. Lack of confidentiality could also allow information, and advantage, to leak to the opponent, endangering the adversarial system.

ANSWERS TO THE MINDTAP PRACTICE TESTS

1. Paralegals are responsible for clerical and word processing services for the law firm.
   Answer: False

2. Disbursements are expenses incurred on behalf of the client.
   Answer: True

3. Help your clients feel comfortable by using their first names immediately.
   Answer: False

4. Pro-bono cases are cases involving malpractice.
   Answer: False

5. The U.S. Court of Appeals for the Federal Circuit hears appeals from the U.S. Commissioner of Patents.
   Answer: True

6. The U.S. Court of Appeals has original jurisdiction over controversies between two or more states.
   Answer: False

7. An adverse party for whom a newly hired paralegal once worked should be informed of the hiring and of the nature of the conflict-of-interest screen.
   Answer: True

8. Industrial espionage might lead to which type of litigation?
   a. Contract case
   b. Civil rights case
   c. Corporation case
   d. Products liability case
   Answer: c

9. Timekeeping is important for
   a. analyzing productivity.
   b. setting speed records.
   c. determining billable hours.
   d. a and c
   e. none of the above.
   Answer: d

10. A tickler system
    a. helps with legal research.
    b. is a calendaring process.
    c. keeps law office personnel in a jovial mood.
    d. indicates proper venue.
    Answer: b

11. Professional telephone use includes all of the following *except*
    a. a chatty conversation.
    b. repetition of facts.
    c. brevity.
    d. identification as a paralegal.
    Answer: a

12. Paralegals may
    a. give legal advice to a friend.
    b. accept cases for the firm.
    c. represent clients at federal administrative hearings.
    d. split fees with an attorney.
    Answer: c

13. Florida court decisions and legislation introduced in some states have pointed toward possible changes in rules regarding
    a. unauthorized practice of law.
    b. conflict of interest.
    c. confidentiality.
    d. a and d.
    e. all of the above
    f. licensing of paralegals.
    Answer: d

14. Ethical responsibility in a law firm rests with
    a. attorneys.
    b. the senior partner.
    c. paralegals.
    d. legal secretaries.
    e. all of the above.
    Answer: e

15. A court has personal jurisdiction
    a. when a summons and complaint are served within its geographical district.
    b. when a summons and complaint are served out of state under a long-arm statute.
    c. over everyone in its district.
    d. a and b.
    e. b and c.
    Answer: d

16. The jurisdictional amount
    a. can determine in which court a case can be tried.
    b. is the attorney's fee.
    c. is the same in all courts.
    d. can be waived for indigents.
    Answer: a

17. Legislative courts include all of the following *except* the
    a. United States Claims Court.
    b. United States District Court.
    c. United States Tax Court.
    d. United States Court of Veterans Appeals.
    Answer: b

18. Except in class action cases, the jurisdictional amount in federal diversity cases
    a. is the combined claim for multiple plaintiffs.
    b. is the value of all claims made by one plaintiff against one defendant.
    c. can never include attorney's fees.
    d. is the value of each plaintiff's interest in the property in question rather than the actual value of the property.
    Answer: b

19. Venue is all of the following *except*
    a. the county where the incident occurred.
    b. the county where all the defendants reside.
    c. each county where multiple plaintiffs reside.
    d. neighborhood.
    Answer: c

20. The law that substantially extends diversity jurisdiction in class action cases
    a. is the Class Action Fairness Act.
    b. is the State Class Action Limitation Act.
    c. sets the jurisdictional amount for all plaintiffs combined at $10 million.
    d. requires all plaintiffs and defendants to be diverse.
    Answer: a

21. What is the role of the paralegal in the law firm?
Answer: Completing tasks assigned by attorneys:
gathering and organizing information
drafting documents
researching and investigating
assisting at hearings and trials
filing matters
informing clients on case status
generating income for the firm through billable hours
benefiting clients through lower rate and efficient work

22. What are the consequences of malpractice suits?
Answer: Higher insurance costs, damaged reputations, disciplinary action by the bar

23. How is the development of a litigation system important to you?
Answer: As a learning process for tasks and organization, as a reference for frequent tasks, and as an asset in obtaining employment

24. Define conflict of interest as it applies to paralegals.
Answer: Working for one party when there is already a relationship (former representation, investment, etc.) with the opposing party

25. How can a paralegal continue professional development?
Answer: a. Keep informed of what is going on in your field.
b. Attend continuing education seminars.
c. Participate in paralegal associations.
d. Subscribe to paralegal literature.

26. The U.S. District Court has original jurisdiction in what types of cases?
Answer: Federal question and diversity of citizenship with amount of $50,000 in controversy

27. What is the domicile of a corporation? An insurance company? A national bank?
Answer: Corporation: state in which it is incorporated and principal place of business; insurance company: state in which it is incorporated and principal place of business plus state of insured person; national bank: state designated in its articles of association as its main office

28. What is the subject-matter jurisdiction of your state courts?
Answer: Check your state court diagram.

29. Explain the differences between venue and subject-matter jurisdiction.
Answer: Subject-matter jurisdiction defines what subject, including amount in dispute, a court is authorized to hear; venue permits a court to hear a case because that is the geographical location in which the defendant lives or in which the cause of action arose. The difference is an issue of what versus where.

30. How is forum *non conveniens* used?
Answer: To transfer a case to another court having requisite jurisdiction and venue if the original court is inconvenient to the defendant

CHAPTER 2: THE INITIAL INTERVIEW

CHAPTER OBJECTIVES

- Understand the importance of the initial client interview
- Develop a plan for preparing, conducting and summarizing the interview
- Determine the types of questions to ask in an interview for the most effective results
- Recognize how to handle challenging clients in a professional manner
- Define the term statute of limitations and identify its significance in the litigation process

This chapter is intended to help students understand the purpose of an initial client interview and to develop a systematic way of preparing for, conducting, and summarizing an interview.

PREPARING FOR CLASS: INSTRUCTIONAL SUPPLEMENTS

1. Preview the chapter questions and assignments.
2. If your students have not studied torts and contracts in previous courses or need a review of those topics, you may choose to assign Appendix B.
3. You may choose to supplement the chapter material with comments on interview preparation and interview techniques that have been particularly helpful to you.
4. The chapter lends itself to some expansion on the substantive law of negligence. You will need to tell the class whether their jurisdiction is a contributory or a comparative negligence jurisdiction, and how this aspect of negligence law works in the jurisdiction. For example, if the state is a comparative negligence state, does it have the 51 percent rule barring a plaintiff's recovery?
5. You may choose to use different cases in Chapter 1, such as the contract case, or cases from your own research or experience for examples or practice exercises. If so, it will be necessary to give the class some background on the substantive law of your state pertinent to the examples used.
6. You may choose to provide samples of interview forms from a variety of contexts. They could be added to the interview section of the systems folder.
7. A prepared list of the state's statutes of limitations for common types of lawsuits would be a useful handout.
8. Any additional forms, preferred forms, and checklists that you prefer may be useful supplements to this chapter.
9. Make a list of pertinent Web sites.

SUGGESTED CLASS ACTIVITIES

1. Probably the most significant activity that could be used for this chapter is to have the students prepare for and conduct an interview. A number of class hours could be set aside for this activity. Using the Ameche case (Case II) from Chapter 1, conduct an interview of Mr. Ameche (Case II). Do this in class in a role-playing setting . Divide the interview into various segments (introduction, personal information, events leading up to accident, the accident, injuries, etc.). Different students should take the responsibility of interviewee and interviewer for each segment. The class should critique each segment of the interview according to the following criteria:

1. Friendly and effective introduction
2. Clarity of questions
3. Application of specific interview techniques
4. Willingness to probe
5. Attitude toward client
6. Effective conclusion of interview
7. Overall preparation
8. Sincerity of interviewer

Distribute the following Data Sheet for the Ameche case.

If students are assigned the role of Mr. Ameche, they should:

1. Study the data sheet so that they can respond to questions without having to refer repeatedly to the data sheet. Have them pay particular attention to the description of the accident.
2. It would be normal to have to refer to documents to get the names of doctors, hospitals, bills, insurance companies, etc.
3. Students should provide their own answers when asked a question for which the data sheet has not provided information. (MU = Make up information.)

Data Sheet for Mr. Ameche, Case II

Has not contacted other attorney
Referred to firm by neighbor
Carl Evan Ameche, Soc. Sec. No. 000-00-0000
2222 2nd St., Thorp, Ohio 10000, Meade County, Phone: MU
Date of Birth: MU Age: 35 Nationality, Race, Religion: MU
Accountant with Miller & Miller 3000 Third St., Thorp $38,000
Married to Zoe Elaine (Jeffers), part-time day care aid and homemaker,
Soc. Sec. No. 000-10-0000 Phone: MU Married Oct. 1, 8 years ago
Child: Zachary Nathan (6)
Employment History: 8 years with Miller & Miller, MU other employment
Education: B.S. degree in accounting, Ohio University, 13 years ago
No prior lawsuits
Incident date: Aug. 21, three months ago

Beginning two-week vacation. Stopped first day at Maple Meadows Campground, site 36. As setting up camper, saw black electrical cord near where Zach was playing. Moved cord away from campsite. Cord was worn and rubber casing was broken in several spots. Plugged camper into extension cord that was taped to regular outlet. Noticed camper light and radio increasingly flickering off and on. Static on radio became quite loud. Heard son yell and emerged from camper to see son trapped by grass and brush fire. I grabbed old brown army blanket from camper and threw it around me. I ran through some flames to get to my son. I wrapped him in the blanket and carried him on my shoulder through the flames. I wore a short-sleeved shirt and khaki shorts, jogging shoes, no socks. Son was OK but my clothes were burning in several places. Zoe and I used another blanket to extinguish the flames burning my clothes and hair. I was obviously burned on my legs and arms. A maintenance worker at the camp took me to the hospital. Zoe and Zach followed in our car. Don’t know worker’s name.

Defendants: Camp owners Leroy and Margie Congden, Highway 60, Star Route 2, Legalville, Columbia. Their insurance carrier is Citizens Insurance Company of Hartford, Connecticut. They have not paid me anything, nor have I signed anything or made any statements to them.

Weather Conditions: dry and windy

Description of Campsite: MU

Statements: I told Dr. and nurses what happened. I have also told friends that I thought fire was caused by extension cord.

Witnesses: Mr. Robert Warren (in campsite 34) who is from Legalville and goes to campground occasionally on weekends. I do not have his address. I had spoken to him in afternoon after arrival. Told him of having electrical problems.

Medical: I suffered first-degree burns on my legs, hands, and left side of my face as well as numerous second- and third-degree burns. About 12 percent of my body was burned. Inhaled smoke but no serious damage to lungs. Felt nauseous and the burns were very painful. Hospitalized for two months. Had several skin graft operations. Doctors say I have significant permanent scars on face, hands, and legs.

Restrictions: Restricted movement of right (writing) hand. Some difficulty holding pencil. Overall movement still restricted. Doctors unsure whether restriction permanent or not. Hair beginning to grow back in most places. The pain is less now, but it was severe for the first month.

I still find the burn damage repulsive.

Hospital: Capitol County General Hospital, 400 Ridge Boulevard, Legalville

Treatment: Emergency treatment for burns Aug. 21, hospitalized 8/21-10/1

Surgery: Skin grafts to left cheek and left ankle by Albert Find, M.D., plastic surgeon, 313 Broad Street, Legalville

Prior Medical History: Healthy, broken ankle playing softball six years ago, normal childhood diseases

Damages: Employment, out of work since accident. May begin in approximately one month, but burn scars will make it hard to face clients.

Pain and Suffering (past-present-future) Estimate:

First month—terrible	$300/day
Second month	$200/day
Third month	$150/day

Rest of life because of scarring (embarrassment), some limitation in movement and use of hand—$40/day

Loss of Consortium (love and affection): 3 months at $50/day Loss of Earnings: Out of work for 3 months

Scarring could cost 10% of client's Medical:

Hospital Emergency Room	$3,000
61 days **x** 400/day	$24,000
Dr., surgery	$10,000
Prescriptions	$700
Other Property: Camper and equipment	$2,000
Other: Loss of vacation	$1,000

[[end of data sheet]]

Answer: This assignment is probably the highlight of the chapter for most students. It works best if every student has the opportunity to do an interview, but time may not permit this. You might do an example interview for the entire class. Groups of three students might then alternate the roles of interviewer, client, and evaluator. This could be done in or out of class. If this is still too time-consuming, the interviewer may have to prepare for and conduct one specific phase of the interview. You will need to provide copies of the data sheet for Mr. Ameche. Be sure that students take notes of the interview for use in the Application Assignment.

2. Have students enter into a computer the notes from your interview with Mr. Ameche. Using a duplicate of these notes, delete extraneous material and organize the remaining important information into a summary according to the format in Exhibit 2.7.
   Answer: Based on student assignment in the Ameche case interview. Have students complete the Interview Summary Sheet.

   Interview Summary Sheet

   File No. Date opened: Interviewer:
   Client: Spouse: Children, ages:
   Phone:
   Date of injury: Statute of limitations:
   Summary of facts of action:
   Type of action:
   Facts related to elements of action:
   Facts related to possible defenses:
   Witnesses:
   Summary of injury and treatment to date:
   Total medical bills to date: Summary of business or wage loss:
   Evaluation of client as witness: Other comments:
   Things to do:

   Suggested response (based on Exhibit 2.7):

   File No. Date opened: Interviewer:
   Client: C. Ameche Spouse: Z. Ameche Children, ages: Zachary, 6
   Phone:
   Date of injury: Aug. 21, ____ Statute of limitations:
   Type of action: personal injury
   Summary of facts of action:
   Set up camp, site 36, Maple Meadows Campground
   Moved damaged electrical cord from where son was playing
   Noticed electrical problems with light and radio
   Son's yell alerted him to fire
   Ameche suffered burns
   Facts related to elements of action: Damaged cord, injuries
   Facts related to possible defenses: Moving the cord
   Witnesses: Robert Warren of Legalville
   Summary of injury and treatment to date:
   1st-degree burns on legs, hands, left side of face
   Numerous 2nd- and 3rd-degree burns
   Two months hospitalization and several skin grafts
   Permanent scars
   Restricted movement, particularly in use of hand
   Total medical bills to date: $37,700
   Summary of business or wage loss: Make up
   Evaluation of client as witness: Good—scars will elicit sympathy
   Other comments:
   Things to do:

SUGGESTED ADDITIONAL EXERCISES BASED ON THE AMECHE CASE

1. Using the information following the sample interview form in the text, list the procedural stages for creating your own interview form and place it in your systems folder.
   Answer:
   - Review file.
   - Have attorney identify likely cause of action.
   - Research cause of action to identify needed elements and defenses.
   - Draft interview questions that will elicit information to help prove or disprove cause or defenses to the cause (brainstorm ideas and write out questions).
   - Add name and standard background questions.
   - Have attorney review proposed form, make corrections and additions.

2. Review the Ameche case (Case II). Prepare at least five interview questions that will elicit specific details of this non-automobile accident.
   Answer: Responses will vary, but may include the following areas:
   - Were you told about the electrical problem before you moved into campsite 36?
   - Describe the condition of the extension cord supplying electricity to your campsite.
   - Describe the area where the cord was lying (anything flammable?) and the area where you threw the cord.
   - How hard did you throw the cord? Could the throw have damaged the cord further or loosened connections?
   - Did your son have access to matches or anything else that may have caused a fire?
   - When you first saw your son trapped by the flames, how far was he from where you threw the cord?
   - Can you think of any way you could have rescued your son without injury to this extent?

3. Review the checklist of information to be given at the initial interview. Which three items do you think are most important? Explain.
   Answer: This answer is subjective. Good class discussion question.

4. Some class time could be devoted to a brainstorming session by students with your assistance to develop possible areas of inquiry or questions for the interview related to one or more of the needed elements. This activity could be done in small groups, with a general session for groups to report their ideas.

5. You might conduct an example “how-to” interview for students to follow. If this interview is well planned, it could be videotaped and used for each new class of students or put in the video library for review as an out-of-class assignment.

6. Have a psychologist from the college or community come to class to discuss the following:
   a. interview techniques
   b. interview settings and arrangements
   c. lie detection techniques
   d. problematic situations
   e. body language
   f. effective self-desensitization techniques that would allow an interviewer to deal comfortably with people having repulsive injuries or disabilities

7. Have a business communications teacher discuss effective phone and letter-writing techniques.

SUGGESTED ANSWERS TO THE TEXT QUESTIONS AND ASSIGNMENTS

QUESTIONS FOR STUDY AND REVIEW

1. For what reasons is the initial interview with the client important? What should be considered when screening a potential client?
   Answer: The client interview sets the tone for the entire relationship between the prospective client and the law firm. It also sets the tone for the critical relationship between the client and the paralegal that may last months or even years. The interview commences the investigation, a fact-gathering process requiring other interviews and techniques. The initial client interview and subsequent interviews determine the basis of the lawsuit (or its defense), the firm's acceptance of the case, and the fee. Additionally, the potential client's character, honesty in business dealings, caliber as a witness, and ability to work easily and cooperatively with others are important considerations. Also consider a conflict-of-interest check on the potential or recently accepted client, or the paralegal should verify that one has been completed.

2. What are the eleven steps in the interview plan? Explain how each step is accomplished.
   Answer:
   Step 1 *Review all available information on the case.*
   Step 2 *Locate or develop an appropriate interview form.*
   Step 3 *Select a location for the interview.*
   Step 4 *Determine what information the client should bring.*
   Step 5 *Schedule the interview (tentatively); check with attorney.*
   Step 6 *Anticipate and arrange for any special needs.*
   Step 7 *Review pertinent ethical and tactical considerations.*
   Step 8 *Review recommended interview techniques.*
   Step 9 *Prepare orientation and instruction materials for the client.*
   Step 10 *Prepare any forms for the client's signature.*
   Step 11 *Prepare the interview site.*

   Step 1: Check the Internet and news services, especially locally, for any information on the client's case.
   Step 2: Find examples in the firm's files, in form books, or on the Internet.
   Step 3: Usually the office is selected unless the potential client has special needs that require accommodation.
   Step 4: Depending on the type of case, this information will vary.
   Step 5: Check with all concerned as to schedules before finalizing an interview with a potential client.
   Step 6: Ask general questions to the client, so the firm will be prepared for any special needs, such as a translator.
   Step 7: Know the rules of ethics when working with a potentially new client. Consider conflicts of interest.
   Step 8: Understand the best way to elicit information and make the client feel comfortable. See the list located in the main text Chapter 2 for step 8.
   Step 9: Attempt to anticipate the needs of the client based upon the case. Having standardized information for personal injury cases, for example, will assist the client in having confidence with Firm. See also the suggestions for step 9 in Chapter 2.
   Step 10: Pre-prepare any forms that are normally used for the type of case that the client is discussing, such as fee agreements. These documents will vary.
   Step 11: Be sure the interview site is prepared prior to the client arriving. Cords and paper should be cleared, if an office is used.

3. Identify and define the four legal elements that must be proved by the plaintiff in a negligence case.
Answer: The elements are duty of care, breach of that duty, proximate cause of the injury, and actual injury that caused damage.

4. How does one develop pertinent questions for an interview?
Answer: Develop open-ended questions that will encourage the client to respond, creating a narrative. Anticipate responses as questions are prepared for the interview.

5. What are some of the considerations for selecting a location for the interview? Why is scheduling a flexible time for the interview important?
Answer: Considerations include the client's needs; location of the client, especially if out of state; age of the client; and health of the client. Flexibility is important because emergencies always arise, although it is best to try to find a time that is mutually agreeable to all concerned.

6. What types of things should the client bring to the interview?
Answer: The client should bring all documents in the client's possession relating to the case, such as journals, medical records, photographs, police reports, employment records, and any documents that may help in accessing and developing the case.

7. Identify the special needs one should anticipate in planning an interview.
Answer: Depending on the situation, interpreters, special access if a disability exists, or even a convenient location other than the firm's office may be needed.

8. What special ethical and tactical concerns must a paralegal be aware of when interviewing a client?
Answer: Be sure the client knows your status as paralegal and the ethical issues associated with that position. Avoid tape recordings or written statements in the initial interview. Run a conflict of interest check.

9. What is a fee agreement and why do so many client v. attorney fee disputes occur? What is good practice regarding law office Web sites and fee agreements?
Answer: Fee arrangements set forth the payment obligations of the client to the firm. Disputes arise when these arrangements are not clearly set out by the firm. If the firm has a Web site, specifically setting forth whether an attorney-client relationship is created through Internet contact is important to convey.

10. What federal law governs a medical facility's release of a client's medical information to a paralegal?
Answer: The Health Insurance Portability and Accountability Act.

11. What is a statute of limitations? When should it be checked? When does a statute of limitations begin tolling in various circumstances?
Answer: The statute of limitations is the time period in which a lawsuit must commence. The statute of limitations should be checked as soon as the firm becomes aware of the date of the incident. The tolling begins when a lawsuit is filed.

12. How do you use "pace and lead" and other techniques to deal with a difficult client?
Answer: The "pace and lead" technique is used to control the interview. This technique will afford control on the attorney's or paralegal's part, especially if the client tends to not be listening to the questions or information posed during the interview.

13. How should you summarize or evaluate an interview?
Answer: The interview should be evaluated from an objective viewpoint.

14. How can the paralegal play a key role in keeping the client informed of the status of the client's case?
    Answer: With the attorney's permission, the paralegal can prepare letters and communicate with the client, both by telephone and electronically, in a timely manner.

15. What is a disengagement letter and why is it important?
    Answer: This type of letter identifies those instances when representation of a client is declined. This may be due to a conflict or other general concerns about the representation.

SYSTEMS FOLDER ASSIGNMENTS

1. List the interview tasks and the purposes of the tasks at the beginning of the interview section in your systems folder. Place a copy of the Interview Plan Checklist in your systems folder. Add to this section any forms, techniques, examples, or other material that you or your instructor deem useful.
   Answer:
   1. Sets the tone for the firm-client and paralegal-client relationship
   2. Builds client's confidence in the relationship
   3. Begins investigation
   4. Determines basis of or defense to lawsuit
   5. Establishes firm's acceptance of case
   6. Sets fee

2. Review the interview forms in Exhibit 2.1 and Exhibit 2.2 and compile a list of the names, addresses, phone numbers, medical records, insurance information, and so on that you would like Ms. Forrester to bring to the interview. Make a copy of the list and place it in the systems folder. This list will be useful when you call or write the client and will serve as a checklist for future cases.
   Answer: This assignment can be applied to any case and interview form.
   - Social Security number (only if essential)
   - Family addresses and phone numbers
   - Employment of spouse
   - Information on any divorce
   - Addresses and phone numbers of other close relatives
   - Employment information
     - Employer, address, phone number, dates, salary, position
     - Self-employment
   - Education information
   - Income
     - Current gross income, tax forms for last three years
   - Time lost
   - Real estate owned
   - Personal property owned
     - Bank accounts
     - Stocks
     - Bonds
     - Autos
     - Furniture
     - Jewelry
   - Prior legal actions: dates, nature
   - General background information on other parties
   - Insurance coverage: deductible, amounts of coverage

- Accident
  - Date, time, location, diagrams, photos, news clippings
  - Automobile information (if applicable): location, photos, owners
- Any statements to others about accident
- Witnesses: addresses, phone numbers, ages
- Parties' previous accidents
- Medical reports
  - Bills
  - Ambulance service
  - Treating and consulting physicians and addresses
  - Pharmacy
- Prior medical history: physicians, hospitals, etc.
- Damages
- Property damage

3. Make the letter in Exhibit 2:3 into a form letter for your systems folder. Redraft the letter to suit your style and needs, leaving blank those areas of the letter that will contain the variable information (names, addresses, date, and so on) for each new client. Once your form is set up, it can be placed in your systems folder, requiring the entry of only the variable information for each repeated use. Throughout this training period, follow this form-making procedure for letters and other documents that will be used repeatedly from one case to the next.
Note: Keep track of your time by filling out the time log.
Answer: See box with form Confirmation of Appointment letter.
[[START BOX]]

WHITE, WILSON & MCDUFF
Attorneys at Law
Federal Plaza Building Suite 700
Third and Market Streets
Legalville, Columbia 00000

Address: Date
Case File No.

This is to remind you of your appointment on ___________, at __________ at our office. The purpose of the appointment will be to ______________________. The appointment is for an hour, or more if necessary.

Please bring the items checked in the following list, if they are available:

( ) Last four digits of Social Security number
( ) Insurance carrier, policy limits, address, and phone number
( ) Name(s) of the other party or parties and any information you have about them, including insurance carrier
( ) Photos of accident, injuries, or other damage
( ) Photos of accident scene
( ) Diagram of accident and location
( ) News clippings regarding accident
( ) Names, ages, birthdates of spouse and dependents
( ) Description of vehicle(s) in accident, license number, owner, damage
( ) Medical bills, treating physicians, medical insurance, medical history
( ) Occupation and salary information, time lost

( ) Accident or injuries subsequent to this incident
( ) Any correspondence regarding accident
( ) Names, addresses, and phone numbers of other witnesses
( ) Be prepared to describe accident
( ) Other ___________________.

We appreciate your gathering as much of the information as you can. I look forward to meeting you. In the meantime, I can be reached at _______________.
[[end box]]

4. Your supervising attorney has asked you to develop a draft of a brochure for clients with information the client should receive at the initial interview. Include any additions to the brochure suggested by your instructor. Place the brochure in your systems folder.
   Answer: The brochure should contain items in step 9's list of information to be given to the client at the initial interview. Offer the students any helpful additions from your own experience.

5. Note in your systems folder what forms you should have ready for the client at the initial interview. Include samples of those forms or references to where they can be located quickly, such as the page number in the textbook, the form number in a form file, or a computer file.

APPLICATION ASSIGNMENTS

1. Test your research skills and learn about your state law by researching the terms *negligence*, *contributory negligence*, and *comparative negligence* in your state's jury instruction book, statutes, or digest. For additional understanding of these concepts, look in a legal encyclopedia, *Am Jur's Proof of Facts*, or other national reference sources. Note what must be proved. research may be conducted electronically or through books.
   Answer: This assignment is designed to reinforce research skills and to give the students a chance to see what kind of research is necessary to isolate the key elements of an area of law that make up the legal foundation for a cause of action. Your state statutes will vary, but general definitions are as follows:

   Negligence:
   1. The defendant's action or omission caused harm to the plaintiff.
   2. The action or omission would not be made by a reasonable person under similar circumstances.

   Contributory negligence:
   The plaintiff's own act or omission contributed to the harm to the plaintiff; a defense to a negligence claim.

   Comparative negligence:
   1. Concurrent negligence by both parties caused the injury.
   2. Each party's negligence is measured by percentage of fault. The plaintiff recovers proportional damages, but:
      a. only if the plaintiff's fault is less than the defendant's, and
      b. if the plaintiff could not have avoided the harm after the defendant's negligence was apparent.

   Comparative negligence replaces contributory negligence in most states.

2. Adapting the methods you have learned to a variety of circumstances is an important process and an invaluable ability in the law office. Test your understanding of the methodology described in step 2 of planning the interview by creating an interview form for a breach of implied warranty case. Assume that you are representing one of the defendants in the Forrester case. The theory is that the brakes of the van were defective and that is why the accident occurred. Research the legal requirements for a breach of warranty case and prepare the interview form.
   Answer: The student should prepare at least one interview form. The class may be divided to locate or write interview forms in four or five areas to be shared and placed in systems folders. You may choose to provide interview forms from various areas of law. These forms may also be used to evaluate the student's forms.

3. Your firm is handling a wrongful death case for the plaintiff. Since the deceased is not available to testify, how can you introduce the human factor into the case? Who would you interview and what information would you want to gather? What information would you gather in other ways?
   Now assume you work for the defense. What information would you gather and how would you gather it?
   Answer: Students should suggest things that show the impact of deceased on family before death, what life is like in the family after loss of the deceased, and impact on friends.
   For the defense, friends, neighbors, and coworkers might have insights into the "real person," such as a history of abusing others and serious vices that impacted the family negatively.

4. Since the Forrester case involves patient medical information, review your state's (and federal) requirements for the release of medical records and other medical information and prepare the document for Mrs. Forrester's signature.
   Answer: This answer will vary based on the jurisdiction of the student. Students should review the requirements under the Health Insurance Portability and Accountability Act (HIPAA) and corresponding state statutes and case law.

5. Locate the common statutes of limitations through the index to your state's statutes. Compile a list of the statute numbers and time limits for cases involving personal injury, property damage, wrongful death, contracts (oral and written), and products liability.
   a. Personal injury ________ years
      statute number ________.
   b. Property damage ________ years
      statute number ________.
   c. Wrongful death ________ years
      statute number ________.
   d. Contracts
      oral ________ years
      statute number ________.
      written ________ years
      statute number ________.
   e. Products liability
      ________ ________ years
      statute number ________.
      ________ ________ years
      statute number ________.

   Answer: This answer will vary based on the jurisdiction of the student.

CASE ASSIGNMENTS

1. Mrs. Forrester has decided to hire your law firm to represent her in the personal injury lawsuit she intends to filed against Richard Hart and Mercury Parcel Service, Inc. Your attorney has asked you to prepare the fee agreement between the firm and Mrs. Forrester. Draft the document in accordance with the legal requirements in your jurisdiction.
   Answer: This answer will vary based on the jurisdiction of the student. However, it is suggested that students check local and state bar Web sites for possible examples of fee agreements that comply with the jurisdictional requirements. Also, form books and the Internet should be consulted in preparing a fee agreement.

2. Prepare a letter to Mrs. Forrester summarizing both the firm's and her responsibilities in the course of her representation. Remember to consider including information, such as who to contact if questions arise, the need for cooperation in gathering information for the case, and confirmation of best methods of contacting the client, for example. Be creative and locate sample letters from the Internet, law firms, and formbooks.
   Answer: Suggested letter is as follows:

WHITE, WILSON & MCDUFF
Attorneys at Law
Federal Plaza Building Suite 700
Third and Market Streets
Legalville, Columbia 00000

Date

Mrs. Ann Forrester

Address:

Re: Forrester v. Richard Hart and Mercury Parcel Service, Inc.

Case File No.

Dear Mrs. Forrester:

This will confirm our meeting on ___________, at __________ at our office. The purpose of the meeting was to discuss your personal injury case against Richard Hart and Mercury Parcel Service, Inc. At that meeting we discussed the Firm's responsibilities to you as well as your responsibilities to the Firm in its representation of you.

Our Firm is your legal advocate whose function is to assume responsibility for your case and represent you to the best of the attorney’s ability. The paralegal will assist in handling your case. Always feel free to contact either of use when questions arise or information needs to be communicated.

You will need to provide us with *all* information you can gather and recall about the incident, your injuries and losses, and any statements you have made to others. This includes, but is not limited to, all documents, including police reports, hospital and doctor records, employment information, and photographs.

Sometimes it may be necessary to provide us with intimate personal information. Expect that the information you give will be held in the strictest of confidence consistent with the highest standards of professional loyalty. Honesty and candor will assist us in providing the most complete representation of your matter.

Additionally, it is important that you refrain from making any statements to others about the incident or about your injuries or losses. Such statements may be used against you in court and could weaken your case. Refer any inquiries or requests to our office.

Begin a daily medical journal in which you will record the condition of your injuries and medical treatment. Daily references to pain, suffering, sleeplessness, limitations on normal activity, changes in condition, and trips to the hospital or physician should be noted. Keep a record of your expenses: mileage, prescriptions, drugs, crutches, wheelchair, private nurse, and other relevant information.

Record all employment losses: days missed; lost pay and benefits; and missed raises, promotions, merit pay, and bonuses. Also note the date of your return to work and any subsequent effects your injuries have on your ability to do your job. Make a record of all damages to property and estimates for repair. Do not discard, give away, or sell such property without consulting us.

List your expenses in hiring others to perform domestic work and maintenance or child care needed as a result of your injuries. Apprise our Firm of your medical, property, and disability insurance coverage in order that steps may be taken to inform the companies of the incident and claims may be made. You do not want to waive your right to a claim; such claims may provide necessary cash for living expenses. Money paid by your insurance company will be reimbursed to the insurance company if it is awarded to you in the lawsuit for the same damages previously paid for by the insurance.

And finally, the filing of a case is important because it keeps the case moving, provides access to the opponent's information, and encourages a more timely resolution of the matter. Once a case is filed, it may take from one year to several years before it comes to trial. Prior to trial you will be called to the office to review information and to prepare for trial. You may be asked to provide sworn testimony about the incident at a deposition. This is required by law. You will be given time to prepare for this deposition. You may also be asked to undergo an examination by a physician chosen by the opponent in order to verify your injuries. This is permitted by law.

Most importantly, *do not sign any documents releasing others from liability or accepting payments for injuries*; and do not file an accident report without first checking with us. You should be aware that most cases are settled before trial; your case may be settled through negotiation prior to trial. No settlement will be agreed upon without your full knowledge and acceptance. Your case may not end following a decision by the court. Frequently appeals are filed before a case is final. This can take a long time and is simply part of the process.

Please keep us informed of any new information that arises or that you recall. Inform us of any change in address, extended vacation plans, and so on. Refrain from asking others questions about your case. This frequently leads to confusion and incorrect information. If you have questions about your case, please ask us. We will be glad to help. If I am not available, always feel free to contact Terry Sayler, the paralegal working with me on your case.

I look forward to working with you.

Sincerely,

Attorney's Name

INTERNET EXERCISES

INTERNET EXERCISE

Go to http://www.atanet.org, click on *find a translator,* and locate the name of an ATA translation from (1) Spanish to English; (2) Haitian (patois) to English; and (3) Japanese to English.
Answer: This answer will vary.

INTERNET EXERCISE

Determine the statute of limitations in your jurisdiction for a (1) negligence case, (2) medical malpractice case, and (3) breach of contract case.
Answer: This answer will vary based on the jurisdiction of the student.

APPLY YOUR KNOWLEDGE

APPLY YOUR KNOWLEDGE

Using one of the fact scenarios from Case II, III, IV or V in Chapter 1, create an interview form that can be the basis of an interview for the case you have chosen.
Answer: See suggested interview form in Suggested Class Activities section.

APPLY YOUR KNOWLEDGE

What additional questions would you ask Mrs. Forrester? Based upon the interview presented, what would be your next steps? Detail your plan of action for the Forrester case.
Answer: Ask additional questions on family background for damages; more details on potential witnesses and the surrounding area; details on what Mrs. Forrester termed as “fish tailing" and her understanding of the word; probe Mrs. Forrester's memory when she answered "I don't know” or “it's possible." And, finally, more detail should be extracted as to the extent of the injuries and their effect.

Next steps should be to gather as much documentary information as possible, including through visiting the scene and taking pictures.

CASE STUDY QUESTIONS FOR REVIEW

Siraco v. Astrue, 806 F. Supp. 2d 272 (D.Me. 2011)

QUESTIONS FOR REVIEW: **What was the basis of the Commissioner’s challenge to the award?** The problem arose because the paralegal did most of the work on the case, and therefore most of the fee earned was from the paralegal’s work and not the attorney’s. The paralegal worked 25.2 hours and the attorney worked 4.7 hours on the case. The Commissioner believed that the award was therefore unreasonable.

Why did the Court disregard the lodestar formula? The formula distorted the results and the proper analysis given the work performed. The Court did not want to diminish the contribution of the paralegal and the attorney's contribution to the matter. **Would the Court’s reasoning have changed if the amount of the award to Ms. Siraco would have been higher with a higher attorney’s fee? Why or why not?** Generally, the Court was focused on this case and not hypothetical cases. The Court did not overrule past precedents but also did not want to create one rule that would apply in all cases.

***PAPENTHIEN V. PAPENTHIEN*, 16 F.SUPP. 2D 1235 (S.D. CAL. 1998)**

QUESTIONS FOR REVIEW: **What other issues did the court consider in dismissing the case?** The Court considered then-existing law that applied when the case was filed and the effect of the first amended complaint to the filing of the original complaint; these issues were in addition to the statute of limitations and venue issues. **What is the doctrine of the "law-of-the-case" and why did it apply to this case?** When matters are decided by an appellate court, its rulings, unless reversed by it or a superior court, bind the lower court. It applied because the original Ninth Circuit case did not have evidence of when the attack occurred. This was significant new information. **Was the result in *Papenthien* a fair result? Defend your answer.** This will be a subjective response.

SUGGESTED ANSWERS TO THE ADDITIONAL MINDTAP QUESTIONS AND ASSIGNMENTS

ADDITIONAL QUESTIONS FOR STUDY AND REVIEW

1. Why is planning an interview important?
   Answer: It is the significant step in creating the attorney-client relationship. It sets the stage for the future relationship.

2. Explain how to develop an interview form.
   Answer: Use past forms from the law firm and use the Internet to gain insight on forms related to the case the client has presented.

3. What is the difference between contributory negligence and comparative negligence? Which of these two doctrines is the rule of law in your state?
   Answer: Contributory negligence means that if the injured party contributed in any way to the occurrence, the injured party will not recover in damages; comparative negligence permits recovery even if the injured party contributes. The injured party's recovery will be reduced proportionally. Answer will vary as to what a particular state follows.

4. What is the doctrine of last clear chance? What is the assumption of risk? Give examples of each.
   Answer: Last cleopar chance is a doctrine that permits parties to recover damages who normally could not because of their contributory negligence. For example, assume that Mrs. Forrester carelessly ran across the ice on the road, slipped, and fell, leaving her directly in the path of Mr. Hart's van. Also assume that Mr. Hart had a last clear chance to avoid the accident. If he was inattentive and did not avoid the accident, Mrs. Forrester could still recover damages in spite of her own negligence.

   Assumption of risk states that plaintiffs may not recover for damages if they knowingly place themselves in danger. For example, if Mrs. Forrester had decided to stay in the middle of the road and thumb her nose at any oncoming vehicle, she would be assuming the risk of injury, and Mr. Hart would have a defense to Mrs. Forrester's action for negligence.

5. Create ten questions probing the existence and nature of injuries suffered in an occurrence.
   Answer: This answer will vary with each student and the instructions of the instructor.

6. What is the simple process for developing a form letter?
   Answer: Utilize past examples from the firm's files.

7. Restate as many of the interview techniques as you can.
   Answer: The following techniques have proven useful:
   1. Have the client meet with the attorney first, giving the attorney the opportunity to explain the role of the paralegal and what that means to the client in terms of reduced cost. The attorney can then introduce the paralegal. This sequence should help develop client confidence in the firm's professionalism and in the paralegal.
   2. Make the client comfortable. Offer refreshments and break the ice with light, pleasant conversation.
   3. Be friendly and respectful. Address the client as *Mr.*, *Mrs.*, *Ms.*, or *Dr.*, as appropriate.
   4. Create a private environment free of interruptions. Have your calls held. If necessary, place an "Interview in Progress" sign on the office door.
   5. Explain the purpose of the interview and let client know you need the client's help.

6. Inform the client that you, the attorney, and any employees of the law office are required to protect the information provided by the client and that such information is held in the strictest confidence. Explain that honesty is essential and that it can be disastrous to hold back any information, no matter how personal or embarrassing it might be. On the other hand, explain that it is human to forget, and that it is not unusual that something forgotten now can be recalled later. Discuss, also, that it is normal for people to want to fill in gaps in their memories, but that they need to be careful about presenting information they do not remember clearly.
7. Express confidence about what you are doing. Thorough preparation and planning will help you be more confident. It is equally important to avoid trying to impress the interviewee with all of your legal knowledge and vocabulary.
8. Avoid being condescending. Try to put yourself in the client's position and think how you would like to be addressed.
9. Take accurate, detailed, and legible notes.
10. Be a good listener. Silences during the interview process are inevitable and can be productive periods of thought and recall. Avoid the temptation to end the silence quickly. Be patient, supportive, and accepting. Encourage the expression of feelings, and avoid making value judgments.
11. Be mindful of the client's body language or idiosyncratic mannerisms and note them for the attorney. Body language is important because of the jury's potential reaction to it. Be cautious, however, in interpreting body language; such interpretation is not a precise science.
12. Let clients tell their stories. It is important to them. Come back later to pick up significant details.
13. Use open narrative questions, such as "What happened?" and "What happened next?" This allows clients to proceed at their own pace and encourages a freer flow of information, which is more conducive to fact gathering.
14. Avoid questions that suggest an answer. For example, "Mrs. Forrester, you did look both ways before you stepped onto the highway, didn't you?" This is a leading question and encourages clients to respond as they perceive you want them to respond, and not necessarily with the truth. This type of question restricts the flow of information.
15. Avoid "why" questions, which are often viewed by the interviewee as a sign of disapproval. A less confrontational approach might be "Try to help me understand this," or "Would you please elaborate on your reasons for doing that?"
16. Probe the accuracy of judgments regarding items such as speed, distance, color, time, or size. Determine, if possible, the basis of the judgment or test its accuracy through example or comparison to some similar item or distance.
17. Be mentally prepared to deal with sensitive or personal matters in a forthright yet empathetic manner. Avoid skirting the issue or using euphemisms. Such shyness or hesitancy on the part of the interviewer can encourage dishonesty.
18. Deal tactfully but directly with suspected dishonesty. Do not be afraid to indicate that a response doesn't seem to stand up or to follow from the other evidence.
19. Restate the client's information when necessary to make sure you understand: "Now let me see if I have this right. You said you stepped out . . . ?"
20. Be thorough in asking about the accident or other alleged wrongs and any damages. Cover how the injury or loss affected the family's life or, in a business or contract case, how the action affected the business, its customers, and other factors. The more details you can obtain, the better.

8. In the "Information to Be Given to the Client" checklist, which suggestions, if not followed, may adversely affect the client's case?

Answer:

1. The attorney is your legal advocate whose function is to assume responsibility for your case and represent you to the best of the attorney's ability.
2. The paralegal assists your attorney in handling your case, providing you with a more thorough preparation at a lower cost.

3. You will need to provide your attorney with *all* the information you can gather and recall about the incident, your injuries and losses, and any statements you have made to others.
4. It may be necessary to provide your attorney with intimate personal information. Expect that the information you give will be held in the strictest of confidence consistent with the highest standards of professional loyalty.
5. Refrain from making any statements to others about the incident or about your injuries or losses. Such statements may be used against you in court and could weaken your case. Refer any inquiries or requests to your attorney.
6. Do not sign any documents releasing others from liability or accepting payments for injuries. Do not file an accident report without first checking with your attorney.
7. Begin a daily medical journal in which you will record the condition of your injuries and medical treatment. Daily references to pain, suffering, sleeplessness, limitations on normal activity, changes in condition, and trips to the hospital or physician should be noted. Keep a record of your expenses: mileage, prescriptions, drugs, crutches, wheelchair, private nurse, and so on.
8. Record all employment losses: days missed; lost pay and benefits; and missed raises, promotions, merit pay, and bonuses. Also note the date of your return to work and any subsequent effects your injuries have on your ability to do your job.
9. Make a record of all damages to property and estimates for repair. Do not discard, give away, or sell such property without consulting your attorney.
10. List your expenses in hiring others to perform domestic work and maintenance or child care needed as a result of your injuries.
11. Apprise your attorney or paralegal of your medical, property, and disability insurance coverage in order that steps may be taken to inform the companies of the incident and claims may be made. You do not want to waive your right to a claim; such claims may provide necessary cash for living expenses. Money paid by your insurance company will be reimbursed to the insurance company if it is awarded to you in the lawsuit for the same damages previously paid for by the insurance.
12. You should be aware that most cases are settled before trial; your case may be settled through negotiation prior to trial.
13. The filing of a case is important because it keeps the case moving, provides access to the opponent's information, and encourages a more timely resolution of the matter. Once a case is filed, it may take from one year to several years before it comes to trial. No settlement will be agreed upon without your full knowledge and acceptance.
14. Keep the paralegal informed of any new information that arises or that you recall. Inform us of any change in address, extended vacation plans, and so on. Refrain from asking others questions about your case. This frequently leads to confusion and incorrect information. If you have questions about your case, please ask us. We will be glad to help.
15. Prior to trial you will be called to the office to review information and to prepare for trial. You may be asked to provide sworn testimony about the incident at a deposition. This is required by law. You will be given time to prepare for this deposition. You may also be asked to undergo an examination by a physician chosen by the opponent in order to verify your injuries. This is permitted by law.
16. Your case may not end following a decision by the court. Frequently appeals are filed before a case is final. This can take a long time.

9. List those things to be considered in preparing the interview site.
Answer: Make sure the office is arranged in a way you feel will be most comfortable for the client (facing each other across a desk, side by side at a table, or seated in chairs set in a conversational arrangement) and is equipped with everything you and the client will need. You should have paper for taking notes and drawing diagrams, extra pens or sharpened pencils, tissues, and ice water, coffee, and tea. Paralegals also use portable electronic keypads with small display screens for note taking, such as tablets and iPads. Some software provides simultaneous audio recording while

taking notes. Be sure to have your own diagram present if you intend to work from that, and any photographs or other items you will be using or referring to. All the forms you drafted should be at hand for the client's signature.

10. Review all the steps necessary to prepare for and conduct an entire interview.
Answer: See Chapter 2 outlines.

ADDITIONAL SYSTEMS FOLDER ASSIGNMENTS

1. Review the interview forms, noting the type of information requested. Place a copy of these interview forms or similar forms into this section of your systems folder.
Answer: No answer is required for this question.

2. List the pertinent ethical considerations for interviewing a client. Place them in your systems folder.
Answer:
Unauthorized practice of law
Confidentiality
Honesty
Conflict of interest

3. Prepare a list of the interview techniques in step 8 for your systems folder. Add any techniques suggested by your instructor.
Answer: Add to this list any suggestions from your own experience.
   1. Have the client meet with the attorney first.
   2. Make the client comfortable.
   3. Be friendly and respectful.
   4. Create a private environment free of interruptions.
   5. Explain the purpose of the interview.
   6. Explain the importance of confidentiality and honesty.
   7. Express confidence about what you are doing.
   8. Avoid being condescending.
   9. Take accurate, detailed, and legible notes.
   10. Be a good listener.
   11. Be mindful of how a jury might react to the client's body language or mannerisms.
   12. Let clients tell their stories; pick up details later.
   13. Use open narrative questions.
   14. Avoid questions that suggest an answer.
   15. Avoid "why" or confrontational questions.
   16. Probe the accuracy of judgments.
   17. Be prepared to deal with sensitive matters.
   18. Deal tactfully but directly with suspected dishonesty.
   19. Restate the client's information to ensure understanding.
   20. Get thorough details on accident and damages.
   21. Apply special interview techniques for interviewees with special needs (child, mentally challenged, other) or get qualified assistance.

4. Develop your own checklist of the items you will need at the interview site. Such a checklist will be a quick reference for preparing your office or a conference room for the interview. Include the necessary forms and directions. Place this material in the systems folder.
Answer: A checklist should include the following:
   1. A clear desk
   2. Writing materials

3. Diagrams or photographs
4. Forms for signature
5. Refreshments
6. Comfortable setting
7. No interruptions/hold calls
8. Emergency preparations

5. Using the information following the sample interview form in the text, list the procedural stages for creating your own interview form and place it in your systems folder.
   Answer:
   - Review file.
   - Have attorney identify likely cause of action.
   - Research cause of action to identify needed elements and defenses.
   - Draft interview questions that will elicit information to help prove or disprove cause or defenses to the cause (brainstorm ideas and write out questions).
   - Add name and standard background questions.
   - Have attorney review proposed form, and make any needed corrections and additions.

ADDITIONAL APPLICATION ASSIGNMENTS

1. Review the *Ameche* case (Case II). Prepare at least five interview questions that will elicit specific details of this non-automobile accident.
   Answer: Responses will vary, but may include the following areas:
   - Were you told about the electrical problem before you moved into campsite 36?
   - Describe the condition of the extension cord supplying electricity to your campsite.
   - Describe the area where the cord was lying (anything flammable?) and the area where you threw the cord.
   - How hard did you throw the cord? Could the throw have damaged the cord further or loosened connections?
   - Did your son have access to matches or anything else that may have caused a fire?
   - When you first saw your son trapped by the flames, how far was he from where you threw the cord?
   - Can you think of any way you could have rescued your son without injury to this extent?

2. Review the Checklist of Information to Be Given at the Initial Interview. Which three items do you think are most important? Explain.
   Answer: This answer is subjective. Good class discussion question.

ADDITIONAL INTERNET EXERCISES

1. Go to your local or state bar association Web sites and locate examples of a fee agreement based upon an hourly rate and a contingent fee agreement. If none are found, locate examples from neighboring states.
   Answer: The answer will vary among each jurisdiction and the jurisdiction's case law.

2. Find examples on the Internet of client background information sheets and checklists.
   Answer: This answer will vary.

3. Search for examples of checklist for a products liability case dealing with a faulty brake system on a truck or van. (This should be placed in your systems folder for future use in the discovery process.)
   Answer: This answer will vary.

ADDITIONAL LEARNING EXERCISES

1. List the essential elements and defenses to a cause of action for breach of contract.
   Answer:
   Elements
   - Valid contract
     a. Competent parties bargaining at arm's length
     b. Mutual assent including offer and acceptance
     c. Reciprocal consideration
     d. Lawful and enforceable purpose
     e. In a form required by law
     f. Absence of fraud, duress, undue influence, mistake of fact
   - Breach—failure to comply with terms
   - Damages
   - Damages were caused by breach

   Defenses
   - Lack of capacity
   - Undue influence
   - Duress
   - Mistake known to other party
   - Mutual mistake
   - Misrepresentation
   - Fraud
   - Unconscionability
   - Statute of limitations
   - Death or impossibility

2. Read the fee agreements in Exhibit 2.4 and Exhibit 2.5. Briefly discuss the strengths and weaknesses of these agreements from the point of view of the firm, then from the point of view of the client.
   Answer:
   Exhibit 2.4

   Firm will be paid regardless of outcome of case.
   Might not be as much as a percentage if the case is won.
   Client has better idea of required payment, but must pay, win or lose.
   Adequate flexibility?

   Exhibit 2.5

   Firm has chance of large payment—or no payment at all.
   Except for costs, client pays only if case is won, but might lose a large chunk of award to firm.
   Client might overlook the need to pay costs.

3. One of the most common client complaints is, "My attorney never lets me know what is going on—and she (or he) is never available." Drawing from your text, in what specific ways can a paralegal assist the client in this regard?
   Answer:
   - Assume primary responsibility for communication with client.
   - Schedule regular client report letters.
   - Promptly respond to all client inquiries.
   - Acknowledge receipt of information and material sent to you from client.

ANSWERS TO THE MINDTAP PRACTICE TESTS

1. Because each case is unique, interview form questions are not helpful.
   Answer: False

2. Individuals have a duty not to create an unreasonable risk of harm to others.
   Answer: True

3. Because toys are a distraction, do not keep them in the room when interviewing children.
   Answer: False

4. In the interview, encourage the client to give all information about the accident, even if it is not in the client's favor.
   Answer: True

5. Euphemisms are a good way to deal with sensitive issues in interviews.
   Answer: False

6. Pace and lead is a technique used to elicit information during the client interview.
   Answer: False

7. It is better to do a conflict-of-interest check after the client interview rather than before it.
   Answer: False

8. A good interview form does all of the following *except*
   a. includes questions on employment background.
   b. gives you all the questions you will need.
   c. saves preparation time.
   d. requires specific information on damages.
   Answer: b

9. Prominent signs declare a beach closed because of pollution. A swimmer who ignores the signs and later is hospitalized with an infection sues the owner of the beach. What defense does the owner have?
   a. Breach of duty
   b. Contributory negligence
   c. Assumption of risk
   d. Procedural law
   Answer: c

10. The best way to record a client interview is to
    a. take notes.
    b. tape record it.
    c. have the client sign a written statement.
    d. videotape it.
    Answer: a

11. The body language of a person may best be assessed to determine
    a. whether the person is lying.
    b. that the person is confident.
    c. how a jury will perceive the person.
    d. a and b.
    Answer: c

12. Fee agreements
    a. are never discussed by paralegals.
    b. are set by paralegals.
    c. are always based on billable hours.
    d. require the client's signature.
    Answer: d

13. What forms authorize doctors or others holding confidential information to give that information to a lawyer or paralegal?
    a. Docket control forms
    b. Authorization forms
    c. Request forms
    d. Medical information forms
    Answer: b

14. Which is the best interview question?
    a. You stopped to look before you crossed the road, didn't you?
    b. Why didn't you pay more attention to traffic?
    c. Do you know what Statute CS §127 requires?
    d. How long did it take you to cross the road?
    Answer: d

15. Professional ethics require of the paralegal
    a. your best legal advice to the client.
    b. that you do not question the truth of what the client tells you.
    c. confidentiality of client information.
    d. no questions that would embarrass the client.
    Answer: c

16. In concluding the interview, be sure to
    a. have the client sign necessary documents.
    b. have the client sign a statement.
    c. avoid any conversation that is not pertinent to the case.
    d. encourage the client to promote his or her side of the case among friends.
    Answer: a

17. The interview summary is helpful for
    a. publicizing the case.
    b. quick review of facts.
    c. evidence at trial.
    d. keeping the client informed.
    Answer: b

18. A letter to a potential client making it absolutely clear that the firm is rejecting that person's representation is a _____ letter.
    a. deauthorization
    b. CAFA
    c. conflict
    d. disengagement
    Answer: d

19. The initial client interview is significant for what three reasons?
Answer: Establishes client–firm relationship, establishes client–paralegal relationship, begins investigation

20. Define substantive law and procedural law.
Answer: Substantive law defines the duties owed by one person to another. Procedural law defines the steps that must be followed in a lawsuit

21. What are the elements of negligence?
Answer: Duty, breach of duty, injury, breach was cause of injury

22. How do you generate interview questions for specific cases?
Answer: Consider what is needed to prove elements of substantive law.

23. What are some considerations in choosing an interview site?
Answer: Convenience, privacy, access to evidence

24. Is the client going to be the one who is suing or being sued in a contingent fee agreement? Explain.
Answer: The one suing; must be likely to win damages to pay the attorney a percentage

25. In what two ways is the statute of limitations significant to any given lawsuit?
Answer: An action must be filed before the running of the statute or the right to sue is lost. It provides defense to an otherwise valid action.

26. What kinds of materials should the personal injury client bring to the interview?
Answer: Information on employment, insurance, medical treatment, bills, etc.

27. In order not to jeopardize their case, clients should not:
Answer: Clients should not sign documents releasing others from liability, accept payment for damages, make statements to others about the case, file an accident report without attorney approval.

28. How is the interview summary prepared?
Answer: From interview notes and interview form; would be easiest using computer editing

29. What are three ways you can help keep your client informed?
Answer: Schedule regular client report letters, promptly respond to all client inquiries, acknowledge receipt of information and material sent to you from client